

PUBLIC ACCESS TO DEATH RECORDS

General Rules

- Generally, the Access to Public Records Act (“APRA”) (Ind. Code 5-14-3) provides that all records maintained by a public agency are public records, but some may be confidential or disclosable at the discretion of the public agency. All records which do not fall into the exceptions must be made available for public inspection and copying. I.C. § 5-14-3-3.
- The APRA is a general statute; any specific statute regarding access to specific records supersedes the APRA. I.C. 36-2-14 describes the duties of a county coroner. I.C. 16-37 addresses death certificates.
- An agency cannot declare records confidential absent statutory authority or rulemaking authority allowing the agency to classify records confidential. I.C. § 5-14-3-4(a)(2).

Records Coroner Must Disclose to the Public

- When a coroner investigates a death, the public must have access to records that include, among other things, the following:
 - the name, age, address, sex, and race of the deceased;
 - the location where the body was found and, if different, the location where the death occurred;
 - the name of the person reporting the death;
 - the name of the person certifying the death;
 - date and location of an autopsy;
 - the name of the person who performed the autopsy; and
 - probable cause, probable manner, and probable mechanism of death.I.C. § 36-2-14-18(a); *see also* I.C. § 36-2-14-10(a).
- A coroner must compile the information required by I.C. § 36-2-14-18(a) within fourteen days after completing an autopsy or toxicology report. I.C. § 36-2-14-18(f).
- Pursuant to I.C. § 36-2-14-18(g), a prosecuting attorney may petition a court for an order precluding the disclosure of information required by I.C. § 36-2-14-18(a).

Full Copy of Autopsy Report

- A coroner must release a full copy of an autopsy report, except for photographs, videotapes, and audio records, when any of the following submit a written request:
 - a parent of the deceased individual, an adult child, next-of-kin, or an insurance company investigating a claim related to the death (I.C. § 36-2-14-18(c)); or
 - the director of the division of disability and rehabilitative services, the director of the division of mental health and addiction, or the director of the division of aging, when the deceased individual had received services from or through any of these divisions at the time of death (I.C. § 36-2-14-18(d)).
- Pursuant to I.C. § 36-2-14-18(e), a coroner must allow access to a full autopsy report including photographs, videotapes, and audio recordings to the department of child services and a child fatality review committee.

Photographs, Videotape, and Audio Recordings of an Autopsy

- Photographs, videotapes, and audio recordings of an autopsy are confidential, unless access to the records is required by a state or federal statute or is ordered by a court under the rules of discovery. I.C. § 5-14-3-4(a)(11). *See also* I.C. § 36-2-14-10(b).
- Pursuant to I.C. § 36-2-14-10, certain people may access photographs, videotapes, or audio recordings of an autopsy (in some cases a court order may be required):
 - A surviving spouse may access these autopsy records. If there is no surviving spouse, surviving parents may access these records. If there are no surviving parents, an adult child may access copy these records. I.C. § 36-2-14-10(c).
 - After submitting a written request, a municipality, the state, a state agency, the federal government, or a federal agency may access these autopsy records while performing official duties. If disclosure of the deceased's identity is unnecessary, the identity must remain confidential. I.C. § 36-2-14-10(d).
 - A coroner may use or allow the use of these types of autopsy records for case consultation with a pathologist or forensic scientist. I.C. § 36-2-14-10(e).
 - A coroner may also use or allow the use of these types of autopsy records for training purposes, so long as any information identifying the deceased is removed from the records. I.C. § 36-2-14-10(e).
 - Pursuant to I.C. § 36-2-14-10(g), a court may issue an order authorizing a person to access these types of autopsy records.

Investigatory Records

- A law enforcement agency generally has the discretion to withhold investigatory records. *See* I.C. § 5-14-3-4(b)(1). Investigatory records contain information compiled during the investigation of a crime. I.C. § 5-14-3-2(h).
- When a coroner performs a death investigation pursuant to I.C. § 36-2-14-6, the materials the coroner collects are investigatory records for the purposes of the APRA. *Althaus v. Evansville Courier Co.*, 615 N.E.2d 441, 446 (Ind. Ct. App. 1993).
 - A coroner performs the duties required by I.C. § 36-2-14-6 when investigating the death of an individual who “has died from violence; has died by casualty; has died when apparently in good health; has died in an apparently suspicious, unusual, or unnatural manner; or has been found dead.” I.C. § 36-2-14-6(a).
 - Even if a coroner conducts a death investigation pursuant to I.C. § 36-2-14-6, the coroner must nonetheless release information required by I.C. § 36-2-14-18(a).

Death Certificates

- To obtain a death certificate, the person requesting the document must have a direct interest in the record, or the information must be essential to resolve an issue of personal or property rights or to comply with state or federal law. I.C. § 16-37-1-10(a) *cited in Opinion of the Public Access Counselor 07-FC-295*.
- From a death certificate, the local health officer must make a permanent record containing the following: name, sex, age, place of death, residence, decedent's residential addresses from the two years prior to death, and Social Security number. This record must be available to the public, except for the Social Security number, which is confidential. I.C. § 16-37-3-9.